

ORIGINAL

OPEN MEETING ITEM



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**COMMISSIONERS**  
SUSAN BITTER SMITH - Chairman  
BOB STUMP  
BOB BURNS  
DOUG LITTLE  
TOM FORESE



ARIZONA CORPORATION COMMISSION

DOCKET CONTROL

2015 JUL 29 AM 11 34

DATE: JULY 29, 2015  
DOCKET NO.: E-01461A-15-0057

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Jane Rodda. The recommendation has been filed in the form of an Order on:

TRICO ELECTRIC COOPERATIVE, INC.  
(ORDER GRANTING PARTIAL WITHDRAWAL OF APPLICATION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

AUGUST 7, 2015

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

AUGUST 18, 2015 AND AUGUST 19, 2015

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission  
**DOCKETED**

JUL 29 2015

DOCKETED BY	TV
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JODI JERICH  
EXECUTIVE DIRECTOR

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail [SABernal@azcc.gov](mailto:SABernal@azcc.gov).

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 SUSAN BITTER SMITH - Chairman  
4 BOB STUMP  
5 BOB BURNS  
6 DOUG LITTLE  
7 TOM FORESE

8 IN THE MATTER OF THE APPLICATION OF  
9 TRICO ELECTRIC COOPERATIVE, INC. FOR  
10 APPROVAL OF A NEW NET-METERING  
11 TARIFF, THE PARTIAL WAIVER OF THE  
12 COMMISSION'S NET METERING RULES AND  
13 A REVISED AVOIDED COST RATE IN THE  
14 COMPANY'S EXISTING NET METERING  
15 TARIFF.

DOCKET NO. E-01461A-15-0057

DECISION NO. \_\_\_\_\_

**ORDER**

11 Open Meeting  
12 August 18 & 19, 2015  
13 Phoenix, Arizona

14 **BY THE COMMISSION:**

15 \* \* \* \* \*

16 Having considered the entire record herein and being fully advised in the premises, the  
17 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

18 **FINDINGS OF FACT**

19 1. Trico Electric Cooperative, Inc. ("Trico" or "Cooperative") is a non-profit electric  
20 distribution cooperative providing service to approximately 38,000 members in parts of Pima, Pinal  
21 and Santa Cruz counties.

22 2. On February 26, 2015, Trico filed an Application for Approval of Net Metering  
23 Tariffs and Partial Waiver of the Net Metering Rules ("Application"). Trico's Application sought: (1)  
24 approval of a new net metering tariff for future net metered members (i.e. members who file  
25 interconnection applications on and after March 1, 2015) that would credit excess energy produced  
26 from an eligible net metering facility at the avoided cost rate; (2) approval of a partial waiver of the  
27 Commission's net metering rules (A.A.C. R14-2-2301 et seq.); and (3) approval of a revised avoided  
28 cost rate in Trico's existing net metering tariff, which would apply to Trico's existing Distributed

1 Generation ("DG") Members.

2 3. Intervention in this matter has been granted to Tucson Electric Company ("TEP"),  
3 UNS Electric, Inc. ("UNSE"), the Pascua Yaqui Tribe (the "Tribe"), Mohave Electric Cooperative,  
4 Inc. ("MEC"), Navopahe Electric Cooperative, Inc. ("NEC"), Kevin Koch, Robert Hall, the Arizona  
5 Solar Energy Industries Association ("AriSEIA"), The Alliance for Solar Choice ("TASC"), Arizona  
6 Solar Deployment Alliance ("ASDA"), the Solar Energy Industries Association ("SEIA"), Arizona  
7 Public Service Company ("APS") and Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC").

8 4. On March 3, 2015, Trico filed a Notice of Waiver of any 30-day "time clock" that  
9 would apply to the Application.

10 5. On March 11, 2015, Trico filed a Request for Expedited Consideration and Procedural  
11 Conference, requesting prompt resolution of the Application in order to mitigate uncertainty over net  
12 metering in its service territory and limit further cost shifting and increases in lost fixed cost revenue  
13 recovery. Trico believed that a hearing would not be necessary because the Commission already  
14 acknowledged the lost fixed cost recovery and cost shifting impacts of net metering in an APS  
15 proceeding, and had reduced subsidies for Trico's DG systems without hearings.<sup>1</sup>

16 6. On March 19, 2015, the Commission's Utilities Division ("Staff") filed a Response to  
17 Trico's Request for Procedural Order. Staff recommended that Trico withdraw all but the reset of the  
18 avoided cost portion of its Application and have the Commission consider the proposed tariff  
19 modification in the Cooperative's expected rate case. In the event the Cooperative did not withdraw  
20 its Application, Staff recommended that a hearing be scheduled on all issues except the avoided cost  
21 reset because allegations of cost shifting are "strongly disputed and hotly contested," and Trico's  
22 requested changes to the net metering tariff are significant and likely to garner significant  
23 opposition.<sup>2</sup>

24 7. On March 27, 2015, Trico filed a Reply to Staff's Response, in which Trico indicated  
25 that it would not withdraw its Application, but did not oppose an evidentiary hearing on the  
26 Application.

27 <sup>1</sup>March 11, 2015 Request *citing* Decision Nos. 74202 (December 3, 2014) (APS net metering charge) and 72639 (October  
18, 2011) (reducing Trico's upfront incentive from \$1.25 per watt to \$0.75 per watt).

28 <sup>2</sup> March 19, 2015 Staff Response at 1-2.

1           8.     Pursuant to Procedural Order dated March 27, 2015, a Procedural Conference  
2 convened on April 2, 2015, to discuss the timing of a hearing.

3           9.     On March 31, 2015, Staff docketed a Memorandum and Proposed Staff Order that  
4 recommends resetting Trico's avoided cost rate.<sup>3</sup>

5           10.    At the April 2, 2015 Procedural Conference, the presiding Administrative Law Judge  
6 ("ALJ") read a statement to the parties from Commissioner Burns in which he indicates that his  
7 consideration of the Application would benefit from briefing on the issue of whether the matter  
8 should be set for hearing or dismissed without prejudice to be considered in the Cooperative's next  
9 rate case. The ALJ agreed that it would be more efficient to decide the threshold questions of whether  
10 the Application must, or should, be considered in the context of a rate case prior to incurring the time  
11 and expense of an evidentiary hearing.

12          11.    By Procedural Order dated April 3, 2015, the parties were directed to file legal briefs  
13 by April 10, 2015, on the questions of whether the Application must, and/or should, be considered as  
14 part of a rate case, and informed the parties that oral argument would be set at a date-to-be-  
15 determined.

16          12.    On April 10, 2014, Briefs were filed by Trico, Dr. Hall, Mr. Koch, TEP and UNSE,  
17 TASC, ASDA and Staff. NEC and MEC filed a joinder in Trico's Brief.

18          13.    At a Commission Staff Open Meeting on April 13, 2015, the Commissioners directed  
19 the Hearing Division to schedule Response Briefs, set a time for oral argument, and prepare a  
20 Recommended Opinion on the issue(s) raised in the Briefs for consideration by the Commission.

21          14.    On April 14, 2015, Staff filed a Request for Procedural Scheduling Order and  
22 Procedural Conference. Staff reported that the parties had agreed on a deadline for filing Response  
23 Briefs, and requested a Procedural Conference to schedule oral argument.

24          15.    By Procedural Order dated April 16, 2015, the parties were directed to file Response  
25 Briefs by April 30, 2015, and a Procedural Conference was set for April 27, 2015, to discuss a date  
26 for oral argument.

27 \_\_\_\_\_  
28 <sup>3</sup> The matter was initially included on an Open Meeting agenda, but was removed while the Commission considered the  
objections to the Application.

1           16.     The Procedural Conference to schedule oral argument convened as scheduled on April  
2 27, 2015, with appearances by Trico, Staff, TEP, UNSE, the Tribe, MEC, NEC, Mr. Koch, AriSEIA,  
3 TASC, ASDA, SEIA, APS and SSVEC.

4           17.     By Procedural Order dated April 28, 2015, oral argument was scheduled for May 18,  
5 2015.

6           18.     On April 30, 2015, Response Briefs were filed by Trico, SEIA and AriSEIA, TEP and  
7 UNSE, SSVEC, TASC and Staff.

8           19.     The Procedural Conference for oral argument convened as scheduled before a duly  
9 authorized ALJ on May 18, 2015, with Trico, TASC, SEIA, Mr. Koch, TEP, APS, NEC, MEC,  
10 SSVEC, ASDA, the Tribe, and Staff making appearances. Commissioner Burns attended  
11 telephonically.

12           20.     Trico argued that there is no legal impediment to considering its Application outside  
13 of a rate case, and that the overall interest of Trico's members to avoid increased lost fixed cost  
14 revenues warrants having the Commission address the Application in this docket. TEP, UNSE  
15 SSVEC, NEC and MEC supported Trico's position.<sup>4</sup> Dr. Hall argued that the Application in its  
16 entirety should be heard now and not in a later rate case because there are several significant issues  
17 regarding net metering and avoided costs that will benefit from a thorough analysis that is not diluted  
18 by all the other issues that arise in a rate case.<sup>5</sup>

19           21.     TASC argued that a rate case is required to consider the Application because of the  
20 prohibition against single issue rate making and because Trico's requested tariff changes are not  
21 revenue neutral.<sup>6</sup> While acknowledging that re-setting an avoided cost rate outside of a rate case is  
22 not uncommon, TASC argued that because the reset is conjoined with the request to modify the net  
23 metering tariff, the former should also be vetted in a rate case.<sup>7</sup>

24           22.     Staff argued that a rate case is not required as a matter of law to consider Trico's  
25 Application, but that the public interest supports considering it in a rate case proceeding where the

26 \_\_\_\_\_  
27 <sup>4</sup> TEP and UNSE Comments at 1; SSVEC Reply Brief at 2.

<sup>5</sup> Hall Opening Brief at 1.

<sup>6</sup> TASC Opening Brief at 1-2.

<sup>7</sup> *Id.* at 2.

1 Commission would have additional rate making tools to fully address the alleged problems. Staff  
2 recommended that the Commission dismiss the Application, except for the reset of the avoided cost  
3 rate, and order Trico to file a rate case.<sup>8</sup> ASDA, SEIA and AriSEIA also argued that issues affecting  
4 lost fixed costs and rate design are best addressed in a general rate case, where there are more options  
5 available to resolve the utility's concerns.<sup>9</sup> Mr. Koch argued that whether a cost shift tied to DG  
6 installations exists should be heard in a rate case.<sup>10</sup>

7 23. The Tribe did not take a position on whether the Application must be heard in a rate  
8 case, but expressed great concern about the uncertainty caused by the Application.

9 24. Following oral argument, the ALJ took the matter under advisement to prepare a  
10 Recommended Order for the Commission.

11 25. On July 6, 2015, Trico filed a Notice of Partial Withdrawal of Application ("Notice").  
12 Trico states that it is withdrawing the portions of the Application that request modification of its net  
13 metering tariff and related waiver of the Commission's Net Metering Rules. Trico states that in light  
14 of Staff's position, Trico re-evaluated its position and determined that it would be able to file a rate  
15 case in 2015. Trico agrees with Staff that a rate case proceeding provides additional ratemaking tools  
16 to address the cost shift. Trico also states that it prefers to devote resources to a single proceeding,  
17 rather than two significant and time-consuming proceedings.

18 26. In its Notice, Trico states it may be able to file a rate case as early as October 2015,  
19 and will be seeking to have the rate case resolved before the end of 2016. Trico also states that in the  
20 rate case filing, it will be requesting the same modifications to its net metering tariff as described in  
21 the Application, including the same proposed grandfathering date of March 1, 2015. Trico further  
22 requests that the Commission move forward on the portion of its Application that seeks to reset its  
23 avoided cost rate.

24 27. No party filed an objection or comment in response to Trico's Notice.

25 28. We find that it is in the public interest to consider the proposed changes to Trico's net  
26 metering tariff in the context of a rate case where the Commission is able to consider a wide range of

27 <sup>8</sup> Staff Brief at 2.

28 <sup>9</sup> ASDA Opening Brief at 2-3.

<sup>10</sup> Koch Comments docketed April 13, 2015.

possible rate design options. Thus, we approve Trico's partial withdrawal of its Application as requested.

29. Given Trico's proposed changes to its net metering tariff, TASC objected to resetting the Cooperative's avoided cost rate without an evidentiary hearing. TASC's objection to the avoided cost reset appears to have been a result of intertwining the reset of the avoided cost rate with the other proposed tariff changes; TASC has not renewed its objection after Trico filed its Notice.

30. Pursuant to Trico's tariff, the avoided cost rate is the average wholesale fuel and energy cost per kWh charged by Trico's wholesale providers. Trico's current avoided cost rate was approved in Decision No. 71462 (January 26, 2010). The Commission has routinely reset the avoided cost rates for other utilities without a rate case or a hearing. We find that under the circumstances, there is no reason to delay consideration of Trico's avoided cost rate.

31. As of July 23, 2015, the following notice is included in Trico's DG interconnection application materials:<sup>11</sup>

IMPORTANT NOTICE: Trico has proposed a new Net Metering Tariff, which Trico will apply to Interconnection Applications received after February 28, 2015, subject to approval of the Arizona Corporation Commission. The Arizona Corporation Commission is still considering this proposed tariff. Neither this proposed tariff nor the February 28, 2015 implementation date has been approved by the Arizona Corporation Commission at this time. For further information, please visit Trico's website at [www.trico.coop](http://www.trico.coop).

32. In addition, Trico's online information about its renewable programs contained the following:<sup>12</sup>

#### Trico Plans a Rate Case Filing

On February 26, 2015, Trico filed with the Arizona Corporation Commission (ACC) an Application for a Net Metering Tariff change in an effort to proactively mitigate the rapidly increasing cost shift resulting from accelerating deployment of distributed generation (DG) systems in its service territory (see below the links to the Trico Arizona Corporation Commission (ACC) filing regarding the Proposed Net Metering change). Trico proposed to revise its net metering tariff in a manner that would effectively reduce the credit paid for excess solar energy it receives from rooftop DG systems. The lower credit would reduce (but not eliminate) the subsidy provided to DG customers through net metering.

<sup>11</sup> Trico's Sun Watts Interconnection Application

<sup>12</sup> <https://www.trico.coop/index.php/account/residential/renewables>

On July 6, 2015, Trico withdrew the portion of the Net Metering Application seeking to modify its net metering tariff and will now file a general rate case before the end of 2015. The withdrawal of the application was in response to comments from the ACC Staff and others that a rate case proceeding would provide additional ratemaking tools to address cost shifts. The withdrawal of the application will also allow Trico to devote its resources to a single ACC proceeding in an effort to save time and money. Trico's rate filing will request the same modifications to its net metering tariff as requested in the Net Metering Application, including the same proposed grandfathering date of March 1, 2015 for that tariff.

33. The notice about the tariff filing in the DG interconnection application is outdated and if not already revised, Trico should modify it to reflect the current circumstances. In addition, for the period until Trico files its rate case, the information about the forthcoming rate case should be amended as follows to include additional information about the rate case process:

In the rate case, the Commission's Utilities Division Staff and/or intervenors may propose different modifications to the net metering tariff which may affect your bill in other ways. The Commission is not bound by any party's proposal, and may accept, reject, or modify any proposed rate, charge or term of service.

#### **CONCLUSIONS OF LAW**

1. Trico is an Arizona public service corporation within the meaning of Article XV, Section 2, of the Arizona Constitution.

2. The Commission has jurisdiction over Trico and over the subject matter of the Application.

3. Notice of the Application was in accordance with law.

4. It is in the public interest to approve Trico's requested partial withdrawal of its Application, and to allow consideration of the reset of Trico's avoided cost rate without further delay.

#### **ORDER**

IT IS THEREFORE ORDERED that Trico Electric Cooperative Inc.'s Partial Withdrawal of its February 26, 2015 Application is granted.

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1 IT IS FURTHER ORDERED that Trico Electric Cooperative Inc. shall modify the notice in  
2 its DG interconnection application and in its description of its SunWatts program as discussed  
3 hereinabove.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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8 CHAIRMAN

COMMISSIONER

9  
10 COMMISSIONER

COMMISSIONER

COMMISSIONER

11  
12 IN WITNESS WHEREOF, I, JODI JERICH, Executive  
13 Director of the Arizona Corporation Commission, have  
14 hereunto set my hand and caused the official seal of the  
Commission to be affixed at the Capitol, in the City of Phoenix,  
this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

15  
16  
17 JODI JERICH  
EXECUTIVE DIRECTOR

18  
19 DISSENT \_\_\_\_\_

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21 DISSENT \_\_\_\_\_  
JR:ru

**SERVICE LIST FOR:**

TRICO ELECTRIC COOPERATIVE, INC.

DOCKET NO.:

E-01461A-15-0057

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